

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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JON FONTAINE,

Plaintiff,

v.

DR. SUBBARAO RAMINENI, facility physician,  
MICHAEL CORNWALL, facility nurse  
practitioner, MARCOS NIEVES, facility psychiatrist,  
MARY FRANCE, social worker,

Defendants.

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**FIRST AMENDED  
COMPLAINT**

**JURY TRIAL  
DEMANDED**

Index No.: 9:15-cv-00432  
(DNH/CFH)

The Plaintiff, Jon Fontaine, by and through his attorney, Jessica M. Gorman, complains and alleges of the Defendants as follows:

**INTRODUCTION**

1. This action seeks redress for the deprivation by Defendants, acting under color of law, of rights guaranteed to the Plaintiff under the United States Constitution and federal law. The Defendants deprived the Plaintiff of these guaranteed rights by ignoring his repeated reports of, and attempts to seek help for, persistent suicidal feelings, resulting in his attempted suicide and prolonged pain and injury.

**JURISDICTION**

2. This action is brought pursuant to 42 U.S.C. § 1983. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343, and 2201 because it is brought to seek relief and/or damages for the deprivation, under color of state law, of the rights guaranteed by

the Constitution of the United States and federal law. This Court also has jurisdiction over the state law claims in this action pursuant to 28 U.S.C. § 1367.

3. Pursuant to New York State Court of Claims Act §10, the Plaintiff timely filed a Notice of Intention to File a Claim, more than thirty days have elapsed since the service of the Notice, payment has been neglected or refused, and the state law claims are brought within two years of accrual.
4. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because the events giving rise to the claims herein occurred in this judicial district.

### **PARTIES**

5. Plaintiff JON FONTAINE is a citizen of the United States and currently resides in Oneida County, New York.
6. At all times relevant herein, Defendant DR. SUBBARAO RAMINENI was employed as a facility physician at the Mid-State Correctional Facility, with his principal place of business being Mid-State Correctional Facility, 9005 Old River Road, Marcy, New York.
7. At all times relevant herein, Defendant MICHAEL CORNWALL was employed as a nurse practitioner at the Groveland Correctional Facility, with his principal place of business being Groveland Correctional Facility, 7000 Sonyea Road, Sonyea, New York.
8. Upon information and belief, and at all times relevant herein, Defendant MARCOS NIEVES was employed as a psychiatrist through the Department of Corrections and/or Office of Mental Health. His principal place of business in this capacity is the Central New York Psychiatric Center, 9005 Old River Road, Marcy, New York 13403.
9. Upon information and belief, and at all times relevant herein, Defendant MARY FRANCE was employed as a social worker at the Groveland Correctional Facility, with

her principal place of business being Groveland Correctional Facility, 7000 Sonyea Road, Sonyea, New York.

10. At all times relevant herein, the individual Defendants acted under color of law, to wit, under the color of the Constitution, statutes, laws, rules, regulations, ordinances, charters, customs, policies, and usages of the State of New York.

### **FACTS**

11. In or about November 2012, the Plaintiff, Jon Fontaine, was received into New York State Department of Corrections' (DOCCS') custody from the Monroe County Jail. While at the jail, he was prescribed Remeron, a psychotropic medication, for sleeping difficulties.
12. Almost immediately upon his arrival into DOCCS, Mr. Fontaine began feeling suicidal. He wrote several "sick slips" about this, which went unanswered.
13. Soon thereafter, Mr. Fontaine was transferred to Greene Correctional Facility, where he reported his suicidal thoughts to the intake nurse and to a psychologist at the facility.
14. The psychologist informed Mr. Fontaine that the psychiatrist who makes medication adjustments would not return for a few months, and that he would have to "tough it out" until then.
15. The following day, Mr. Fontaine again requested to see mental health. He was seen by a different psychologist who sent him to the Fishkill Satellite Unit where he remained for observation for approximately one week.
16. Upon information and belief, Mr. Fontaine's Remeron dosage was increased during this time and he was also prescribed two other psychotropic medications.

17. His suicidal thoughts decreased for a brief period, but returned soon after his transfer to Groveland Correctional Facility at the end of December 2012.
18. Defendant psychiatrist Dr. Marcos Nieves “met” with Mr. Fontaine via teleconference and Mr. Fontaine reported to the doctor his daily death wishes. Upon information and belief, Defendant Dr. Nieves increased the dosages of Mr. Fontaine’s psychotropic medications and prescribed another psychotropic medication, but he thereafter failed to monitor Mr. Fontaine’s mental status or his reaction to the psychotropic medications.
19. Over the next few months, Mr. Fontaine decompensated even further; he lost interest in daily activities, he neglected his appearance and failed to engage in self-care, and he generally felt like a “zombie.”
20. Defendant social worker Mary France met very briefly with Mr. Fontaine one time in February and one time in March 2013. He reported to her that he was still having daily death wishes and his belief that his suicidal feelings may be related to his medications. Although Mr. Fontaine had been having suicidal wishes for several months, and had repeatedly reported these feelings, Defendant France brushed aside his reports and simply told him that he could not let himself think that way.
21. Around the same time, Defendant Nurse Practitioner Michael Cornwall prescribed Mr. Fontaine additional medications, including Baclofen, for a back injury. Although Mr. Fontaine had been reporting suicidal feelings for months, Defendant Cornwall allowed him to self-carry these medications.
22. On or about the evening of April 12, 2013, Mr. Fontaine took six weeks’ worth of Baclofen pills in an attempt to kill himself. A corrections officer found him unresponsive in his cell.

23. He was transported by advanced life support ambulance to a hospital where he was admitted to intensive care and put on a ventilator.
24. While unconscious, Mr. Fontaine pulled out his ventilator tube. Upon information and belief, this caused infiltrates in his lungs, aspiration pneumonia, and a disrupted heart rhythm.
25. A few days later, Mr. Fontaine regained consciousness and was removed from the ventilator. He had severe pain in his chest, back, hip, leg, and knee, and he began coughing up blood.
26. For the next few days, he remained in extreme pain and he continued coughing up blood, which prevented him from sleeping.
27. Mr. Fontaine was discharged from the hospital on or about April 17 with orders for several medications, including medication to treat his pain, pneumonia, and disrupted heart rhythm.
28. Upon his return to Groveland Correctional Facility, Mr. Fontaine was put into a strip cell with no clothing or bedding. The lights in the cell remained on 24 hours a day. He would remain in the strip cell for more than two weeks.
29. During this time, he was in extreme pain, his heart raced, he continued to cough up blood, and he was unable to sleep. He repeatedly requested medical attention and he repeatedly reported his symptoms to the rounds nurses and to Defendant Cornwall. Upon information and belief, corrections officers also reported to medical staff that Mr. Fontaine was coughing up blood and that there was blood in his sink.
30. Upon information and belief, however, aside from Tylenol and an occasional Baclofen, his severe pain and other symptoms went largely unaddressed by Defendant Cornwall

and the other medical staff at Groveland. Moreover, although Mr. Fontaine continued to experience a racing heartbeat, he did not receive his heart medication.

31. Mr. Fontaine's symptoms and lack of sleep became so extreme that he began to have hallucinations, which eventually intensified to the point that he told prison staff that he was ready to confess to the Boston Marathon Bombing and that he was being held and tortured by the CIA, who was depriving him of sleep and had broken his ribs.
32. Mr. Fontaine was then transferred to Auburn Correctional Facility and a few days later he saw a psychiatrist who discontinued his psychiatric medications. Upon information and belief, the medications were discontinued because they made Mr. Fontaine suicidal. He was finally moved from the strip cell and allowed his first shower in 18 days.
33. About three weeks after his suicide attempt, Mr. Fontaine was eventually transferred to Mid-State Correctional Facility. Medical staff at Mid-State would have had Mr. Fontaine's medical and mental health records, which are to be transferred when inmates move facilities. These records would or should have included documentation of his suicide attempt, aspiration pneumonia, and ongoing symptoms.
34. Mr. Fontaine made several requests to medical staff at Mid-State, including the facility physician Defendant Dr. Subbarao Ramineni, for treatment of his ongoing symptoms of pain, coughing up of blood, rapid heartbeat, and for chest pains and back and leg pain.
35. He was brought to sick call, but his symptoms were dismissed by Defendant Dr. Ramineni without evaluation. In fact, Dr. Ramineni declared, without so much as taking Mr. Fontaine's blood pressure, pulse, or listening to his heart, that Mr. Fontaine just needed to take Tylenol.
36. The symptoms Mr. Fontaine felt, however, were both real, severe, and persistent.

37. Mr. Fontaine was brought to Dr. Ramineni again a few weeks later, and he again complained to him of chest pains, rapid heartbeat, and back and leg pain. Dr. Ramineni outright dismissed these symptoms, telling Mr. Fontaine again that he just needed to take Tylenol, that his symptoms would go away, and “mind over matter.” When Mr. Fontaine pointed out his extremely swollen knee, Dr. Ramineni’s response was that the swelling was not actual swelling, but muscle and that Mr. Fontaine must just use that leg more than the other.
38. A few weeks later Mr. Fontaine again attempted to get medical help for his ongoing serious pain and symptoms. Dr. Ramineni again dismissed Mr. Fontaine’s valid concerns as “psychoneurosis” and declared that they were just Mr. Fontaine’s “subconscious playing tricks” on him.
39. For more than a year after his suicide attempt, Mr. Fontaine continued to suffer from pain and rapid heartbeat, and he occasionally coughed up blood. He also suffered from short-term memory issues and recall difficulties. Dr. Ramineni largely failed to take any steps to evaluate or treat Mr. Fontaine for these medical issues.
40. To date, the extent of Mr. Fontaine’s injuries is unknown, however, he continues to suffer from short-term memory issues and recall difficulties and he still has regular pain in his chest, hip pain so severe that he cannot walk without limping, and rapid heartbeat.

### **CAUSES OF ACTION**

**AS AND FOR A FIRST CAUSE OF ACTION AGAINST DEFENDANTS DR.  
SUBBARAO RAMINENI, MICHAEL CORNWALL, MARCOS NIEVES, and MARY  
FRANCE**

**Violation of Constitutional Rights Under Color of State Law  
Failure to Provide Medical Treatment/Deliberate Indifference to Serious Medical Needs**

41. Plaintiff incorporates by reference and realleges each and every allegation as stated in paragraphs 1 to 40.
42. The Eight and Fourteenth Amendments of the Constitution of the United States prohibit prison officials from deliberately denying medical treatment to an inmate with serious medical needs.
43. As heretofore described, the Plaintiff had clear and serious medical needs which were deliberately ignored by the above-named Defendants. The Defendants failed to adequately investigate and examine Plaintiff's complaints and symptoms, and failed to provide him with adequate medical care both before and after his suicide attempt.
44. Defendant Nieves increased Plaintiff's psychotropic medication dosages and added an additional psychotropic medication without following up to ensure that Plaintiff's mental status or his reactions to the medication were monitored or regularly and timely evaluated; Defendant Michael Cornwall allowed Mr. Fontaine to self-carry a significant quantity of medication despite his reported and documented suicidal ideations; and Defendant France dismissed Plaintiff's suicidal wishes even as his mental state continued to deteriorate.
45. After Mr. Fontaine's suicide attempt, Defendant Dr. Ramineni failed to provide him with adequate medical care and treatment, callously dismissing without evaluation Mr. Fontaine's serious medical needs, and leaving him to suffer with severe pain, rapid heartbeat, coughing up of blood, and other medical issues.
46. The actions and inactions of the above-named Defendants were objectively unreasonable, deliberately indifferent to the Plaintiff's serious medical needs, motivated

by malice and/or gross negligence, and subjected the Plaintiff to unnecessary, prolonged, and severe pain and injury. The Plaintiff continues to suffer from his injuries.

47. The aforementioned actions and inactions of the above-named Defendants, taken under color of state law, violated the Plaintiff's right to be free from cruel and unusual punishment, and are also a violation of 42 U.S.C. § 1983.
48. As a direct and proximate result of the unconstitutional acts described above, the Plaintiff has been seriously injured.

**AS AND FOR A SECOND CAUSE OF ACTION AGAINST DEFENDANTS DR.  
SUBBARAO RAMINENI, MICHAEL CORNWALL, MARCOS NIEVES, and MARY  
FRANCE**

**Violation of State Laws  
Negligence**

49. Plaintiff incorporates by reference and realleges each and every allegation as stated in paragraphs 1 to 48.
50. The above-named Defendants are liable for negligence because, as heretofore described, they failed to discharge their duties to provide for Plaintiff's safety and physical and mental well-being while he was in their care by failing to provide him with timely and/or adequate medical and mental health care, and failing to take adequate precautions regarding his mental health, resulting in Plaintiff's suicide attempt and injury.
51. As a direct and proximate result of the acts described above, the Plaintiff has been seriously harmed.

**AS AND FOR A THIRD CAUSE OF ACTION AGAINST DEFENDANTS MARCOS  
NIEVES and MARY FRANCE**

**Violation of State Laws**

**Negligent Infliction of Emotional Distress**

52. Plaintiff incorporates by reference and realleges each and every allegation as stated in paragraphs 1 to 51.
53. The above-named Defendants are liable for negligent infliction of emotional distress because their heretofore described failures to discharge their duties to provide for Plaintiff's safety and physical and mental well-being while he was in their care caused him severe mental distress, culminating in his suicide attempt.
54. As a direct and proximate result of the heretofore described actions and inactions of the Defendants, Plaintiff has been seriously harmed.

**DEMAND FOR PUNITIVE DAMAGES**

55. The actions and inactions of the Defendants as described were extreme, outrageous, and shock the conscience of a reasonable person and an award of punitive damages is appropriate. Punitive damages are sought only from the individual Defendants.

**DEMAND FOR TRIAL BY JURY**

56. The Plaintiff hereby demands a trial by jury.

**PRAYER FOR RELIEF**

WHEREFORE, the Plaintiff Jon Fontaine requests that this Honorable Court grant him the following relief:

- A. A judgment in favor of the Plaintiff against all Defendants for compensatory damages in an amount to be determined by a properly charged jury;

- B. A judgment in favor of the Plaintiff against all individual Defendants for punitive damages in an amount to be determined by a properly charged jury;
- C. A monetary award for attorney's fees and the costs of this action pursuant to 42 USC § 1988;
- D. Any other relief this Court finds to be just, proper, and equitable.

Dated: February 12, 2016  
Albany, New York

Respectfully submitted,

s/ **Jessica M. Gorman**

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